APPENDIX D

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

Bk. No. LA 85-19207 WL

Adv. No. 86-0246 WL

Chapter 7

In re TED R. LEVY,

Debtor.

WILSON S. PALMER,

Plaintiff,

vs.

TED R. LEVY,

Defendant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW RE: JUDGMENT DECLARING DEBT NON-DISCHARGEABLE

[Filed January 23, 1987]

Date : January 5, 1987

Time : 8:00 a.m.

Place: Courtroom "H"

This matter having come on hearing on January 5, 1987, at 8:00 a.m., before the Honorable William Lasarow, Bankruptcy Judge, in Courtroom "H", in the 9th Floor, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012, upon the Complaint to Determine Debt to be Non-Dischargeable, filed by Wilson S. Palmer, the Plaintiff herein, and the Plaintiff having appeared through his counsel, Richard M. Moneymaker, of the law firm of Moneymaker & Kelley, and Ted R. Levy, the Defendant having appeared through his counsel Don H. Teague, and evidence both orally and documentary having been presented to the Court and good cause appearing therefor,

The Court now finds and concludes as follows:

FINDINGS OF FACTS

1. That on or about March 7, 1986, Los Angeles Superior Court Judge George G. Grover, Jr., entered a Judgment in the Superior Court of Riverside County, Case No. 14585, in favor of Wilson S. Palmer ("Palmer") and against Ted R. Levy ("Levy") among other Defendants for compensatory damages in the sum of $45,612.39 and punitive damages in the sum of $250,000.

2. That said Judgment was obtained after a jury trial lasting approximately 9 days, in which 6 witnesses were called to testify.

3. That Levy thereupon filed a voluntary petition in Bankruptcy in the Bankruptcy Court, December 30, 1985, and scheduled as a creditor, Palmer and

listed as an obligation the amount of said judgment.

4. That subsequently Palmer filed this Complaint against Levy to Determine the Debt to be Non-Dischargeable, contending that said Judgment obtained in Los Angeles Superior Court constituted a Non-Dischargeable Judgment pursuant to 11 U.S.C. Section 523(a)(2)(6).

5. That Levy filed an Answer to said Complaint, and the matter was set for trial.

6. That at the trial the entire Reporter's Transcript of the Superior Court Jury Trial, was offered as an Exhibit and pertinent parts of it were read into evidence and testimony was given by John Hoover, counsel for Palmer, who conducted the State Court jury trial on Wilson Palmer's behalf.

7. That Levy was called as a witness and also testified.

8. The Court refused to allow Levy to challenge the amount of said judgment, but did allow testimony as to the nature of the debt in judgment obtained by Palmer.

9. That this Court finds that the Superior Court jury were given BAJI instructions, which establish an identical legal standard for fraud and misrepresentation, as that found in 11 U.S.C. Section 523(a)(2). That this Court finds that there is sufficient evidence in the record to support a judgment for fraud by the Superior Court jury.

10. That this Court finds that the judgment represents a debt which is non-dischargeable pursuant to 11 U.S.C. Section 523(a)(2).

CONCLUSIONS OF LAW

1. This Court concludes that the Superior Court Judgment obtained March 7, 1985, by Palmer v. Levy is res adjudicata as to the amount of said judgment, in the sum of $45,612.39.

2. This Court concludes that the record of the State Court Judgment is evidence that Levy is liable to Palmer on a non-dischargeable debt in the sum of $45,612.39, for fraud and false pretenses arising out of the underlying facts and transactions, which were presented to the jury in the State Court action.

3. This Court concludes that it has discretion, however, to discharge Levy from legal responsibility to paying the $250,000 punitive damage portion of the

judgment.

Dated: 23/JAN/1987

/s/ William J. Lasarow

WILLIAM J. LASAROW

UNITED STATES BANKRUPTCY JUDGE